

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)	CC Docket No. 98-14	FEDERAL COMMUNICATIONS COMMISSION
)		OFFICE OF THE SECRETARY
Number Portability Query Services)		
)		
Ameritech Tariff F.C.C. No. 2,)	CCB/CPD 98-26	
Transmittal No. 1149, as Amended)		
)		
Bell Atlantic Tariff F.C.C. No. 1,)	CCB/CPD 98-25	
Transmittal No. 1041)		
)		
Pacific Bell Tariff F.C.C. No. 128,)	CCB/CPD 98-23	
Transmittal Nos. 1927 and 1973)		
)		
Southwestern Bell Tariff F.C.C. No. 73,)	CCB/CPD 98-17	
Transmittal Nos. 2638 and 2694)		

**OPPOSITION OF COMCAST CELLULAR COMMUNICATIONS, INC.
TO DIRECT CASE OF BELL ATLANTIC**

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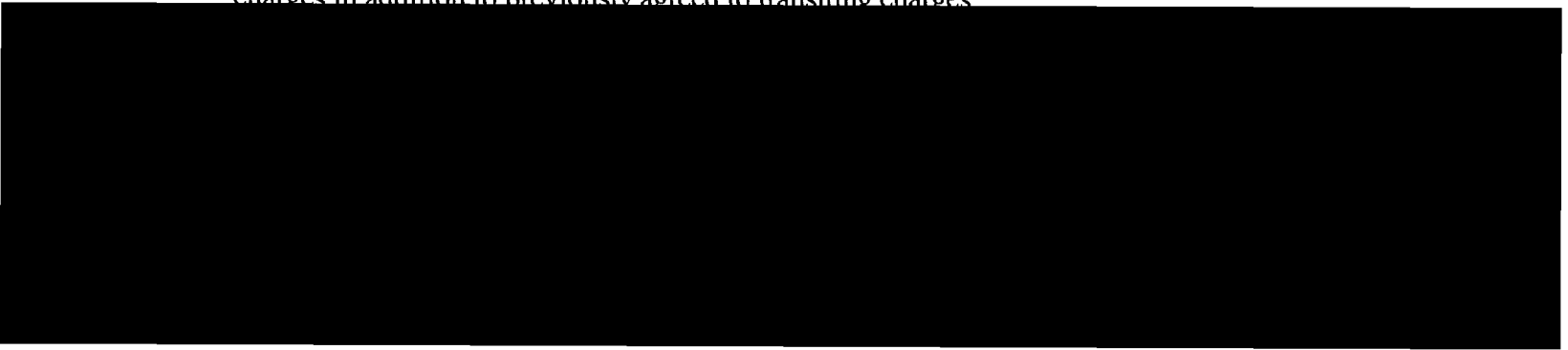
SUMMARY OF ARGUMENT

The Commission should declare Bell Atlantic's practice of assessing default query charges on calls to non-ported NXXs unlawful because it is contrary to the method specified by the Commission in the *Second Report and Order*. Even if the Commission were convinced that such a practice could be lawful, the Commission should find that Bell Atlantic does not adequately justify the imposition of default query charges for calls to non-ported NXXs. As evidenced by other ILEC portability tariffs, it is both technically and economically feasible to deploy number portability broadly through the ILEC network yet not assess query charges until a number within an NXX actually is ported.

If Bell Atlantic is permitted to charge carriers for default database queries for calls in NXXs where no number has been ported, many carriers will be forced to compensate Bell Atlantic for such queries. Wireless providers, including Comcast, simply do not have software available that can perform database queries for their customers and wireless carriers generally will not be able to provide such services until at least the end of this year.

Bell Atlantic also has failed to justify the imposition of default query charges on N-1 carriers for calls made to non-ported NXXs or even mentioned whether it intends to permit wireless carriers with SS7 capabilities ready access to its query database. Failure to make such access available would be a barrier to competition.

Lastly, the Commission can and should conclude that ILECs providing transiting services pursuant to tariffs or interconnection agreements are N-1 carriers that cannot assess query charges in addition to previously agreed to transiting charges.



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**OPPOSITION OF COMCAST CELLULAR COMMUNICATIONS, INC.
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Comcast Cellular Communications, Inc. ("Comcast"), by its attorneys, hereby submits this opposition in response to the Commission's *Order Designating Issues for Investigation* in the above-referenced matter.^{1/} For the reasons described below, the Commission should declare certain elements of Bell Atlantic's Transmittal No. 1041 ("Transmittal No. 1041") to be unlawful. Further, the Commission should clarify that incumbent local exchange carriers ("ILECs") providing transiting services pursuant to an interconnection agreement cannot assess query charges in addition to the compensation agreed upon by the parties.

^{1/} See Number Portability Query Services, *Order Designating Issues for Investigation*, CC Docket No. 98-14, released June 17, 1998 ("*Designation Order*").

As a large regional cellular provider, Comcast offers wireless telecommunications services in major portions of Bell Atlantic's landline territory. According to the Commission's Number Portability Order, Comcast is required to acquire the capability to route ported numbers by December 31, 1998.^{2/} Consequently, Comcast has a direct interest in the number portability services offered by Bell Atlantic. As a wireless provider required to route ported numbers, Comcast is concerned about the potential anticompetitive impact of unnecessary charges, such as the query charges currently assessed by Bell Atlantic and whether Bell Atlantic will choose to make its query database readily available to Comcast or to other wireless carriers when scheduled software upgrades make this possible. As discussed below, the Commission should require that Bell Atlantic and other incumbent local exchange carriers ("ILECs") adequately justify their practices.^{3/}

I. INTRODUCTION AND BACKGROUND

A. The Number Portability Orders Adopted a Method for Provisioning Queries

The Commission's *Second Report and Order* adopted, as the method of achieving number portability, the industry's N-1 querying protocol, as described in the North American Numbering

^{2/} See Telephone Number Portability, *First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8352 (1996).

^{3/} Moreover, the Commission should not permit Bell Atlantic to refuse refunds for aspects of the tariff the Commission finds unlawful. In its *Direct Case*, Bell Atlantic argues that it should not be required to issue refunds due to lack of notice of its tariff's noncompliance. See *Direct Case of Bell Atlantic, Number Portability Query Services*, CC Docket No. 98-14, filed July 1, 1998, at 1 ("*Bell Atlantic Direct Case*"). Comcast notes, however, that Bell Atlantic was aware of the questionable lawfulness of its practice of assessing default query charges for call to non-ported NXXs prior to the time it filed Transmittal No. 1041. See *Opposition of Comcast to Direct Case of Bell Atlantic, Number Portability Query Services*, CC Docket No. 98-14, filed February 20, 1998, at 2-5.

Council's Local Number Portability Administration Selection Working Group Report ("NANC Report").^{4/} Specifically, the Commission adopted the recommendation that "the N-1 carrier be responsible for ensuring that databases are queried, as necessary, to effectuate number portability."^{5/} The Commission anticipated that the N-1 carrier would meet its obligation by querying portability databases itself or by purchasing query services from another entity.^{6/}

The *Second Report and Order* also endorsed the North American Numbering Council's ("NANC") Provisioning Process Flows,^{7/} a document which specifies that database queries need only be performed when at least one number from an NXX has been ported.^{8/} Thus, the Commission's adopted querying protocol states that carriers are not required to perform database queries until the first telephone number in an NPA-NXX is ported.

^{4/} Telephone Number Portability, *Second Report and Order*, 12 FCC Rcd 12281 (1997) ("*Second Report and Order*"). See 47 C.F.R. § 52.26 (requiring that the local number portability administration comply with the recommendations of NANC contained in the Local Number Portability Administration Selection Working Group Report and its appendices). The "N-1" carrier is the carrier in the call routing process immediately preceding the terminating carrier. *Second Report and Order*, 12 FCC Rcd at 12323.

^{5/} *Id.*

^{6/} *Id.*

^{7/} *Id.* at 12314.

^{8/} NORTH AMERICAN NUMBERING COUNCIL, LOCAL NUMBER PORTABILITY ADMINISTRATION SELECTION WORKING GROUP, LNPA TECHNICAL & OPERATIONAL REQUIREMENTS TASK FORCE REPORT, dated April 25, 1997, Appendix B, Figure 9, *adopted*, *Second Report and Order*, 12 FCC Rcd at 12314. See also AT&T Opposition to Direct Cases, Number Portability Query Services, CC Docket No. 98-14, filed February 20, 1998, at 7-8.

The Commission's *Third Report and Order* promulgated rules governing number portability cost recovery.^{9/} There, the Commission described the interswitch query process:

For a carrier to route an interswitch telephone call to a location where number portability is available, the carrier must determine the LRN for the switch that serves the terminating telephone number of the call. Once number portability is available for an NXX, carriers must 'query' all interswitch calls to that NXX to determine whether the terminating customer has ported the telephone number.^{10/}

This description, which appears in the Order's background section, merely restates in summary fashion the basic query method adopted by the Commission in the *Second Report and Order* and does not modify the substance of previous Commission orders.

B. Bell Atlantic's Number Portability Query Services

Following the adoption of the *Second Report and Order*, Bell Atlantic filed a number portability tariff. The Bell Atlantic tariff departs from the Commission's framework by containing a default query charge on calls delivered to any NXX designated as number portable, *regardless of whether any telephone number has in fact been ported from that NXX.*^{11/} The Commission suspended Transmittal No. 1041 for one day and issued an order stating that Bell Atlantic's tariff, as well as the number portability tariffs of several other ILECs, raised

^{9/} Telephone Number Portability, *Third Report and Order*, CC Docket No. 95-116, RM 8535, released May 12, 1998 ("*Third Report and Order*").

^{10/} *Id.* ¶ 15.

^{11/} *Designation Order* at 8 (citing Bell Atlantic Transmittal No. 1041 at 3rd Revised Page 890.17). See *Bell Atlantic Direct Case* at 7 (stating that "Bell Atlantic performs queries when an NXX is opened for portability, not when the first telephone number is ported").

substantial questions of lawfulness.^{12/} In its *Designation Order* that consolidated the ILEC number portability tariffs for investigation, the Commission required that Bell Atlantic and other ILECs justify their plans to "assess a default query service charge for calls to NXXs where the carrier has the capability to query, and may actually be querying calls, but does not have a need to do so in order to correctly route calls because no number has in fact been ported from that NXX."^{13/} The Commission also requested comment on whether imposing query charges on calls to number portable NXXs is reasonable given the absence of a need to query.

As discussed below, Bell Atlantic's practice of assessing a charge on unqueried calls delivered to an NXX from which no number has been ported is unlawful because it is contrary to the method specified by the Commission in the *Second Report and Order*. Even if the Commission were convinced that such a practice could be lawful, it should not be permitted on policy grounds. Additionally, Bell Atlantic has failed to justify the imposition of default query charges on N-1 carriers for calls made to non-ported NXXs or even mentioned, let alone justified, its apparent determination to prevent wireless carriers with SS7 capabilities from readily accessing its query database.

^{12/} See *Designation Order* at 4.

^{13/} *Id.* at 8.

II. BELL ATLANTIC'S PRACTICE OF ASSESSING DEFAULT QUERY CHARGES ON CALLS TO NON-PORTED NXXs IS UNREASONABLE

A. The Practice Is Contrary to the Method Adopted by the Commission

Bell Atlantic's practice of accessing default query charges on calls to non-ported NXXs is directly contrary to the method specifically adopted by the Commission in its *Second Report and Order*. The FCC adopted as the national industry standard the NANC Provisioning Flows. This document specifies that database queries need be performed only when at least one number from an NXX has been ported – not at some earlier stage when an ILEC switch has been modified to permit portability of numbers. According to its *Direct Case*, Bell Atlantic is now performing queries when an NXX is opened for portability, not when the first telephone number is ported from that NXX.^{14/}

In its *Direct Case*, Bell Atlantic entirely fails to address the consistency of its practice with the NANC Provisioning Flows, the querying protocol specified by the Commission. Indeed, Bell Atlantic does not attempt to reconcile its default query charge with the adopted industry standard and merely argues that the process of activating NXXs individually once a number has been ported would be inefficient and inconvenient for Bell Atlantic.^{15/} Moreover, Bell Atlantic fails to include in its *Direct Case* any explanation for the *timing* of its default query charge despite the Commission's solicitation for that information.

Because Bell Atlantic failed to address, let alone justify, the reasonableness of its practice, the rationale of other ILECs that took a similar approach is instructive. In their *Joint*

^{14/} *Bell Atlantic Direct Case* at 7.

^{15/} *Id.* at 8.

Direct Case, Southwestern Bell and Pacific Bell suggest that the crux of the timing of charging issue is whether local number portability is "available," from an ILEC, not whether it is used.^{16/} While the Commission did use the word "available" in describing when charging for queries might commence, a review of the context of the Commission's language shows that the Commission meant that local number portability is available when it is in use to port at least one number.^{17/} The Commission has stated that carriers must 'query' all interswitch calls to a ported NXX to determine whether the terminating customer has ported his or her telephone number once portability is available.^{18/} Thus, the Commission used the word "available" to describe the time after which portability is activated and carriers must query all interswitch calls for a ported NXX.

Southwestern Bell and Pacific Bell over read the Commission's use of the word "available" in the *Third Report and Order*. Certainly, that single word cannot be deemed to have overruled the entire querying protocol adopted in the *Second Report and Order*.^{19/} Southwestern

^{16/} See Consolidated Response of Southwestern Bell Telephone Company and Pacific Bell to Order Designating Issues for Investigation, Number Portability Query Services, CC Docket No. 98-14, filed July 1, 1998, at 19-20 ("*SBC Joint Direct Case*"). Southwestern Bell and Pacific Bell also cite paragraph 46 of the *Third Report and Order* in support of their position, which states that "long-term number portability requires N-1 carriers to incur query costs for all interswitch calls to an NXX once number portability is available for that NXX, whether or not the terminating customer has ported a number." *Id.* at 19. For the record, Comcast notes that this language only addresses the question of whether charges can apply when a particular number has not been ported and does not support the notion that carriers may charge for queries to NXXs where no number has been ported.

^{17/} Indeed, portability is not "available," as a practical matter, until it is activated following the five day notice period required by the NANC Provisioning Flows.

^{18/} *Third Report and Order*, ¶ 15.

^{19/} As described above, the LNP provisioning flows adopted in the *Second Report*
(continued...)

Bell and Pacific Bell cannot now seek reconsideration or modification of the *Second Report and Order* via a strained interpretation of "available" contained in the background section of the *Third Report and Order*.

B. Bell Atlantic's Direct Case Is Incomplete and Unsupported

Furthermore, Bell Atlantic does not adequately justify the imposition of default query charges for calls to non-ported NXXs. Bell Atlantic has argued that it would be inefficient and unnecessarily costly for it to open each NXX individually.^{20/} Thus, Bell Atlantic essentially proposes that N-1 carriers pay for Bell Atlantic to deploy and activate local number portability in its switches in the manner most convenient to Bell Atlantic. In taking this approach, Bell Atlantic has failed to consider the unnecessary costs it will pass to N-1 carriers from these default query charges. Any efficiency analysis performed by Bell Atlantic must include some level of consideration of the costs imposed on other carriers for unnecessary database queries. Nowhere in Transmittal No. 1041 does Bell Atlantic consider the inefficiencies its approach imposes on other carriers.

Not only does Bell Atlantic fail to consider such costs, it argues that such costs should be borne by N-1 carriers, regardless of whether the service for which it is charging has any utility. Such an approach is inconsistent with existing Commission policies regarding charges for unnecessary services. Indeed, the Commission has concluded in the regulated environment that

^{19/} (...continued)
and Order specify that database queries need only be performed after the first telephone number is ported.

^{20/} *Bell Atlantic Direct Case* at 8-9. *See also* Bell Atlantic Rebuttal in Support of Direct Case, Number Portability Query Services, CC Docket No. 98-14, filed February 27, 1998, at 2-3.

carrier investment that is not either used or useful must be excluded from regulated carriers' rate base.^{21/} Here, the Commission should not permit Bell Atlantic to assess charges for a wholly unnecessary service that holds no utility for the other carrier.

As evidenced by Ameritech's and U S West's number portability tariffs, it is technically feasible to deploy number portability broadly through the ILEC network yet not assess query charges until a number within an NXX is ported.^{22/} Ameritech, for instance, is developing billing capabilities to bill only for queries on calls to NPA-NXXs where at least one number has been ported.^{23/} These practices should serve as benchmarks for all ILECs providing number portability query services. In its *First Report and Order* on telephone number portability, the Commission endorsed uniform number portability deployment and methods.^{24/} Moreover, the Commission has observed that the ability of an ILEC to provision a service or network element

^{21/} See Matters of Responsible Accounting Officer Letter 20, Uniform Accounting for Postretirement Benefits Other Than Pensions in Part 32 Amendments to Part 65, Interstate Rate of Return Prescription Procedures and Methodologies, Subpart G, Rate Base, *Memorandum Opinion and Order and Notice of Proposed Rulemaking*, 11 FCC Rcd 2957, 2957 n. 3, 2962-63 (1996) (stating that ratepayers should only pay for investments that are used and useful), *Report and Order* 12 FCC Rcd 2321, 2324 (1997); Matter of Amendment of Parts 65 and 69 of the Commission's Rules to Reform the Interstate Rate of Return Represcription and Enforcement Process, *Report and Order*, 10 FCC Rcd 6788, 6792 (1995).

^{22/} See Ameritech Tariff F.C.C. No. 2, Transmittal No. 1149, filed March 31, 1998, at 2nd Revised Page 166.4.1 (stating that Ameritech will only query terminating calls to numbers in the network with NXX codes *from which a number is or has been ported* that have been designated as number portable)(emphasis added); U S West Tariff F.C.C. No. 5, Transmittal No. 931, filed July 2, 1998, at Original Page 13-41.13 (indicating that U S West, for calls to the company's end office switch, will launch a query only for ported numbers and, for calls to the company's tandem, query only calls to an NXX code with one or more ported numbers).

^{23/} See *SBC Joint Direct Case* at 26.

^{24/} Telephone Number Portability, *First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8352, 8377 (1996).

in a particular way could serve as evidence that it was feasible for other ILECs to adopt similar practices. This benchmarking and adoption of best practices approach should guide the Commission here. The Commission should require that all ILECs only bill for queries on calls to NXXs where at least one number has been ported.

Adoption of a uniform policy also is financially feasible. Despite Bell Atlantic's claim to the contrary, requiring carriers to assess query charges only after a number from an NXX is ported would not significantly affect existing query charges. Bell Atlantic's claim of a 40 percent rate increase to bill only for queries after the first number in an NXX is ported is unsupported and contrary to statistics submitted by other ILECs under investigation.^{25/} Indeed, Southwestern Bell and Pacific Bell actually appear to have calculated the numbers, as requested by the Commission, and reported an increase of less than 1.5 percent to the rates to bill queries only after the first number in an NXX is ported.^{26/} Given the potential impact on Comcast of Bell Atlantic's approach (discussed below), and the technical and financial feasibility of an alternative query method, the Commission should not permit Bell Atlantic or any other ILEC to charge for queries on calls to NXXs where no number has been ported.

The Commission also should inquire of Bell Atlantic whether it intends to modify its database to accept the IS41 wireless signalling protocol. Transmittal No. 1041 contains a lower per query charge for carriers that are able to connect directly to Bell Atlantic's database.^{27/} Bell

^{25/} See *Bell Atlantic Direct Case* at 8 (claiming that the process of opening each NXX individually would "increase the per query charge by at least 40 percent").

^{26/} See *SBC Joint Direct Case* at 28, Appendix C.

^{27/} See Bell Atlantic Tariff F.C.C. No. 1, Transmittal No. 1041, filed April 6, 1998, at (continued...)

Atlantic's database, however, utilizes Advanced Intelligent Network ("AIN") protocol, a protocol that cannot interact with IS41 protocol signalling triggers.^{28/} Because most wireless carriers' networks utilize IS41 protocol, a Bell Atlantic decision to accept only AIN protocol triggers would be discriminatory, much like a refusal to interconnect.^{29/} While software supporting wireless interconnection will be available in early 1999, Comcast believes Bell Atlantic should, in the context of this investigation, affirm its intention not to discriminate by offering a lower query rate to carriers capable of using AIN protocol.^{30/}

C. Wireless N-1 Carriers Have No Choice But to Use LEC Query Services

If Bell Atlantic is permitted to charge carriers for default database queries for calls in NXXs where no number has been ported, many carriers will be forced to compensate Bell Atlantic for such queries. Wireless providers, including Comcast, simply do not have software available that can perform database queries for their customers and wireless carriers generally

^{27/} (...continued)

3rd Revised Page 890.23 (charging \$.0006580 per query for database queries compared to \$.0026250 per query for tandem database queries).

^{28/} See Declaration of James Durcan, attached hereto as Exhibit 1.

^{29/} See The Need to Promote Competition and Efficient Use of Spectrum for Radio Common Carrier Services (Cellular Interconnection Proceeding), *Declaratory Ruling*, 2 FCC Rcd 2910 (1987) (requiring that the BOCs furnish interconnection with cellular carriers), *aff'd on reconsideration* 4 FCC Rcd 2369 (1989) (affirming the obligation of telephone companies to interconnect with cellular carriers).

^{30/} Moreover, Comcast notes that Bell Atlantic does not indicate its cost recovery allocation as between end users and carriers as the Commission requested. The Commission should require that Bell Atlantic reveal this information to prevent Bell Atlantic from potentially giving preferential treatment to its end users.

will not be able to provide such services until at least the end of this year.^{31/} Thus, Comcast's ability to perform the queries necessary to route ported numbers and to implement local number portability for its own customers depends on software upgrades to Comcast's network facilities and its current software does not support these functionalities.^{32/} Until the software has been installed and the upgrade is operational, Comcast must compensate Bell Atlantic to perform local number portability queries.^{33/}

Bell Atlantic argues that its practices should not be scrutinized because there is a competitive market for database query services.^{34/} However, Bell Atlantic has not provided the names of alternative database query service providers in its service area.^{35/} Comcast is uncertain, therefore, that it can make alternative arrangements with a database query service provider that will not charge for default queries to non-ported NXXs. Unless Bell Atlantic can provide the names of alternative service providers that do not charge for default queries to non-ported NXXs, it cannot simply suggest that Comcast and others "get a deal they like better elsewhere."^{36/} Moreover, the key element of Bell Atlantic's tariff filing is that it forces other providers to incur the costs of making or obtaining queries before those queries are required

^{31/} See Declaration of James Durcan, attached hereto as Exhibit 1.

^{32/} *Id.*

^{33/} *Id.*

^{34/} *Bell Atlantic Direct Case* at 8.

^{35/} While Comcast is aware that there is a potential third party provider of query service, use of this third party's service would involve significant changes to Comcast's trunking facilities.

^{36/} See Bell Atlantic Rebuttal in Support of Direct Case, Number Portability Query Services, CC Docket No. 98-14, filed February 27, 1998, at 3.

under the Commission's number portability regime. It does not matter whether Comcast can purchase these services from other vendors if Comcast should not be required to purchase them in the first place.

III. THE COMMISSION MUST CLARIFY THAT LECs CANNOT ASSESS DEFAULT QUERY CHARGES IN ADDITION TO PREVIOUSLY AGREED TO TRANSITING CHARGES

In its *Second Report and Order*, the Commission recognized that efficient provisioning of number portability required that all carriers know which carrier is responsible for database queries.^{37/} Because the FCC has adopted the convention that the N-1 carrier is the carrier responsible for performing database queries, the Commission must ensure that the definition of an N-1 carrier is unambiguous.^{38/} Thus, the Commission must clarify that ILECs providing transiting pursuant to tariffs or interconnection agreements are N-1 carriers responsible for performing database queries.

The definition of an N-1 carrier adopted by the Commission makes clear that the N-1 carrier is the carrier in the call routing process immediately preceding the terminating carrier.^{39/} When Bell Atlantic acts as a transiting carrier under an interconnection agreement and transports a call to the terminating carrier, Bell Atlantic becomes the N-1 carrier because it is the carrier immediately preceding the terminating carrier in the routing process. Thus, Bell Atlantic, not the

^{37/} *Second Report and Order*, 12 FCC Rcd at 12324.

^{38/} See Opposition of Comcast Cellular Communications, Inc. to Direct Case of Bell Atlantic, Number Portability Query Services, CC Docket No. 98-14, filed February 20, 1998, at 5-8.

^{39/} *Second Report and Order*, 12 FCC Rcd at 12323.

originating carrier, is responsible for performing portability database queries.

Despite Bell Atlantic's prior claims to the contrary, the definition of an N-1 carrier found in the North American Numbering Council - LNP Architecture and Administrative Plan does not preclude such a finding.^{40/} In fact, the LNP Architecture and Administrative Plan does not identify the "N" carrier in situations where an ILEC acts as a transiting carrier under an interconnection agreement and transports a call to the terminating carrier. Section 7.8 of the LNP Plan defines the "N" carrier as "the entity terminating the call to the end user, or a network provider *contracted by the entity* to provide tandem access," the "entity" being the "entity terminating the call."^{41/} Thus, Section 7.8 makes the transiting carrier the "N" carrier where a terminating carrier has contracted with the transiting carrier, but does not address the status of the transiting carrier where the originating carrier has contracted with the transiting carrier. The Commission should, therefore, clarify that the definition of an N-1 carrier includes ILECs and other carriers providing transiting services pursuant to a transiting agreement with the originating carrier.

Regardless of whether the LNP Architecture and Administrative Plan is amended, the Commission must recognize that a failure to treat ILECs as N-1 carriers under existing

^{40/} See Rebuttal of Bell Atlantic Telephone Company, Number Portability Query Services, CC Docket No. 98-14, filed February 27, 1998, at 5-6 (asserting that the industry has already decided this question contrary to Comcast's position). See also Rebuttal of Southwestern Bell Telephone Company and Pacific Bell, Number Portability Query Services, CC Docket No. 98-14, filed February 27, 1998, at 23 (asserting that Comcast's position regarding transiting ILECs is "flatly contradicted by the Commission's definition of a N-1 carrier").

^{41/} NORTH AMERICAN NUMBERING COUNCIL, LOCAL NUMBER PORTABILITY ADMINISTRATION SELECTION WORKING GROUP REPORT, dated April 25, 1997, Appendix D at 8 (emphasis added), *adopted, Second Report and Order*, 12 FCC Rcd at 12314.

interconnection agreements would effectively alter binding agreements. Many carriers already have entered into interconnection agreements that include transiting arrangements with specified compensation amounts. Such amounts were negotiated to include all of the costs necessary to route a call to the terminating carrier, including the costs of database queries and the transiting provisions typically were drafted by the ILECs. Permitting ILECs to charge for database queries in such situations would permit them to unilaterally amend the interconnection agreement by altering agreed upon compensation amounts. Thus, the Commission can and should conclude that ILECs providing transiting services pursuant to tariffs or interconnection agreements are N-1 carriers that cannot assess query charges in addition to previously agreed to transiting charges.

IV. CONCLUSION

Bell Atlantic has not provided the Commission with a direct case justifying its local number portability query services rates or practices. Accordingly, the Commission should declare the Bell Atlantic's practice of assessing default query charges on calls non-ported NXXs unlawful, require Bell Atlantic to affirm that it will not erect a barrier to direct interconnection of its query database with wireless carriers' SS7 signalling systems and conclude that ILECs providing transiting services are acting as N-1 carriers. These changes will improve the

opportunity that ILEC implementation of long-term local number portability will promote the development of local telecommunications competition.

Respectfully submitted,

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July 10, 1998

EXHIBIT 1

DECLARATION OF JAMES DURCAN

1. My name is James Durcan. I am a Development Engineering Manager at Comcast Cellular Communications, Inc. ("Comcast"). I have a Bachelor's degree in electrical engineering from Stevens Institute of Technology. I also have a Master's degree in computer and information engineering from Stevens Institute of Technology. I have worked at Comcast for almost four years.
2. I am the development engineering manager responsible for overseeing the implementation of local number portability. Consequently, I am familiar with the technical issues surrounding the implementation of local number portability. Specifically, I am responsible for overseeing the facilities upgrades necessary to query ported numbers and implement local number portability.
3. As the person primarily responsible for Comcast's ability to query ported telephone numbers and to implement local number portability, I can attest that Comcast is committed to making the upgrades necessary for number portability as soon as possible.
4. Comcast's equipment vendor has informed Comcast that the software necessary to query ported numbers will not be delivered until the end of 1998.
5. The unavailability of the software necessary to query ported numbers will prove costly to Comcast. Until the software has been installed and the upgrade is operational, Comcast must compensate other carriers to process local number portability queries.
6. Like other wireless carrier networks, Comcast's network utilizes IS41 wireless signalling protocol. Bell Atlantic has informed Comcast that Comcast's network cannot interface with Bell Atlantic's querying database because Bell Atlantic's database currently utilizes only Advanced Intelligent Network ("AIN") protocol. To the best of Comcast's knowledge, Bell Atlantic's database software vendor, Tekelec, is in the process of revising its software to, among other things, support wireless triggers to number portability databases. This wireless capability is scheduled to become available in early 1999.
7. Comcast's ability to perform the queries necessary to route ported numbers and to implement local number portability for its own customers depends on software upgrades to Comcast's network facilities. Comcast's current software does not support these functionalities. To my knowledge, no provider of wireless switching facilities now offers the ability to meet number portability requirements.

8. Comcast has no feasible alternatives to obtaining a number portability upgrade to its current switching software. Comcast does not have the resources to support standalone development of this functionality in house or through an independent contractor. Thus, Comcast is dependent on its switch vendor to obtain number portability functionality. Without the necessary upgrades it is technically infeasible for Comcast to provide any number portability functionality.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 10, 1998



James Durcan

CERTIFICATE OF SERVICE

I, Joslin Arnold, a secretary at Dow, Lohnes & Albertson, PLLC, do hereby certify that on this 10th day of July, 1998, a copy of the foregoing Opposition of Comcast Cellular Communications, Inc. to Direct Case of Bell Atlantic was sent by hand delivery where indicated, and U.S. mail to the following:

The Honorable William E. Kennard*
Chairman
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

The Honorable Susan Ness, Commissioner*
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

The Honorable Harold Furchtgott-Roth*
Commissioner
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

The Honorable Michael Powell*
Commissioner
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

The Honorable Gloria Tristani*
Commissioner
Federal Communications Commission
1919 M Street, N.W., Room 826
Washington, D.C. 20554

Magalie R. Salas, Esquire*
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Competitive Pricing Division*
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 518
Washington, D.C. 20554

ITS*
1231 20th Street, N.W.
Washington, D.C. 20036

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Joslin Arnold